

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

)
ADJUSTACAM LLC,)
)
)
Plaintiff,)
)
v.) Case No: 6:10-CV-329-LED
)
AMAZON.COM, INC.;)
AUDITEK CORPORATION;)
BALTIC LATVIAN UNIVERSAL)
ELECTRONICS, LLC D/B/A BLUE)
MICROPHONES, LLC D/B/A BLUE)
MICROPHONE;)
BLUE MICROPHONES, LLC;)
CDW CORPORATION F/K/A CDW)
COMPUTER CENTERS, INC.;)
CDW, INC.;)
COBRA DIGITAL, LLC;)
COMPUSA.COM, INC.;)
CREATIVE TECHNOLOGY LTD.;)
CREATIVE LABS, INC.;)
DELL, INC.;)
DIGITAL INNOVATIONS, LLC;)
EASTMAN KODAK COMPANY;)
EZONICS CORPORATION D/B/A EZONICS)
COPORATION USA D/B/A EZONICS;)
FRY'S ELECTRONICS, INC.;)
GEAR HEAD, LLC;)
HEWLETT-PACKARD COMPANY;)
INTCOMEX, INC.;)
JASCO PRODUCTS COMPANY LLC D/B/A)
JASCO PRODUCTS COMPANY D/B/A)
JASCO;)
JWIN ELECTRONICS CORPORATION;)
KLIP XTREME LLC;)
KMART CORPORATION;)
LIFEWORKS TECHNOLOGY GROUP, LLC;)
MACALLY PERIPHERALS, INC. D/B/A)
MACALLY U.S.A;)
MACE GROUP, INC.;)
MICRO ELECTRONICS, INC. DBA MICRO,)
CENTER;)

NEW COMPUSA CORPORATION;)
NEWEGG, INC.;)
NEWEGG.COM, INC.;)
OFFICE DEPOT, INC.;)
OVERSTOCK.COM, INC.;)
PHOEBE MICRO INC.;)
PROLYNKZ, LLC;)
RADIOSHACK CORPORATION;)
ROSEWILL INC.;)
SEARS BRANDS, LLC;)
SEARS HOLDINGS CORPORATION D/B/A)
SEARS)
SEARS, ROEBUCK AND COMPANY;)
SAKAR INTERNATIONAL, INC.;)
SAKAR, INC.;)
SDI TECHNOLOGIES, INC.;)
SOFTWARE BROKERS OF AMERICA INC.)
DBA INTCOMEX CORPORATION D/B/A)
INTCOMEX;)
SYSTEMAX, INC. D/B/A COMPUSA;)
TARGET CORP.;)
TIGERDIRECT, INC.;)
TRIPPE MANUFACTURING COMPANY)
D/B/A TRIPP LITE;)
WAL-MART STORES, INC.,)
BEST BUY CO., INC. D/B/A BEST BUY)
D/B/A ROCKETFISH;)
BEST BUY STORES, LP;)
BESTBUY.COM, LLC;)
CONN'S, INC. D/B/A CONN'S;)
J&R ELECTRONICS, INC. D/B/A J&R;) **JURY TRIAL DEMANDED**
KOHL'S CORPORATION D/B/A KOHL'S;)
KOHL'S ILLINOIS, INC.;)
SOLID YEAR CO., LTD AND)
WALGREEN CO. D/B/A WALGREENS)
Defendants.)
)

**DEFENDANTS COMPUSA.COM, INC.'S, NEW COMPUSA
CORP.'S, SYSTEMAX INC.'S AND TIGERDIRECT, INC.'S
ANSWER TO PLAINTIFF'S THIRD AMENDED COMPLAINT**

Defendants CompUSA.com, Inc. ("CompUSA"), New CompUSA Corp. ("New CompUSA"), TigerDirect, Inc. ("TigerDirect") and Systemax Inc. ("Systemax" and, collectively,

“defendants”), by and through their attorneys, as and for their answer, affirmative defenses and counterclaims to the third amended complaint of plaintiff Adjustacam LLC (“plaintiff”), state:

I. THE PARTIES

1. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the third amended complaint, and therefore deny same.
2. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the third amended complaint, and therefore deny same.
3. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the third amended complaint, and therefore deny same.
4. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the third amended complaint, and therefore deny same.
5. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the third amended complaint, and therefore deny same.
6. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the third amended complaint, and therefore deny same.
7. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the third amended complaint, and therefore deny same.
8. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the third amended complaint, and therefore deny same.
9. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the third amended complaint, and therefore deny same.
10. Defendants admit the allegations in paragraph 9 of the third amended complaint to the extent that CompUSA has a place of business in Miami, Florida.

11. Defendants admit the allegations in paragraph 11 of the first amended complaint to the extent that CompUSA has a place of business in Miami, Florida, but deny any negative inferences drawn therefrom.

12. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the third amended complaint, and therefore deny same.

13. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the third amended complaint, and therefore deny same.

14. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the third amended complaint, and therefore deny same.

15. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the third amended complaint, and therefore deny same.

16. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 16 of the third amended complaint, and therefore deny same.

17. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the third amended complaint, and therefore deny same.

18. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the third amended complaint, and therefore deny same.

19. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 19 of the third amended complaint, and therefore deny same.

20. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 20 of the third amended complaint, and therefore deny same.

21. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the third amended complaint, and therefore deny same.

22. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the third amended complaint, and therefore deny same.

23. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the third amended complaint, and therefore deny same.

24. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the third amended complaint, and therefore deny same.

25. Defendants deny the allegations in paragraph 25 of the third amended complaint.

26. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 26 of the third amended complaint, and therefore deny same.

27. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 27 of the third amended complaint, and therefore deny same.

28. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the third amended complaint, and therefore deny same.

29. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 29 of the third amended complaint, and therefore deny same.

30. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the third amended complaint, and therefore deny same.

31. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the third amended complaint, and therefore deny same.

32. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the third amended complaint, and therefore deny same.

33. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 33 of the third amended complaint, and therefore deny same.

34. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 34 of the third amended complaint, and therefore deny same.

35. Defendants admit the allegation in paragraph 35 of the third amended complaint to the extent that Systemax has a place of business in Miami, Florida, but deny the remaining allegations in paragraph 44.

36. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 36 of the third amended complaint, and therefore deny same.

37. Defendants admit the allegations in paragraph 37 of the third amended complaint to the extent that TigerDirect has a place of business in Miami, Florida, but deny any negative inferences drawn therefrom.

38. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 38 of the third amended complaint, and therefore deny same.

II. JURISDICTION AND VENUE

39. Defendants deny the allegations contained in paragraph 39 of the third amended complaint.

40. Defendants deny the allegations contained in paragraph 40 of the third amended complaint.

III. COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 5,855,343

41. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the third amended complaint, and therefore deny same.

42. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the third amended complaint, and therefore deny same.

43. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 43 of the third amended complaint, and therefore deny same.

44. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 44 of the third amended complaint, and therefore deny same.

45. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the third amended complaint, and therefore deny same.

46. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the third amended complaint, and therefore deny same.

47. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 47 of the third amended complaint, and therefore deny same.

48. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 48 of the third amended complaint, and therefore deny same.

49. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 49 of the third amended complaint, and therefore deny same.

50. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 50 of the third amended complaint, and therefore deny same.

51. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 51 of the third amended complaint, and therefore deny same.

52. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the third amended complaint, and therefore deny same.

53. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the third amended complaint, and therefore deny same.

54. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the third amended complaint, and therefore deny same.

55. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 55 of the third amended complaint, and therefore deny same.

56. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the third amended complaint, and therefore deny same.

57. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the third amended complaint, and therefore deny same.

58. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 58 of the third amended complaint, and therefore deny same.

59. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the third amended complaint, and therefore deny same.

60. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 60 of the third amended complaint, and therefore deny same.

61. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the third amended complaint, and therefore deny same.

62. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 62 of the third amended complaint, and therefore deny same.

63. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the third amended complaint, and therefore deny same.

64. Defendants deny the allegations contained in paragraph 64 of the third amended complaint.

65. Defendants deny the allegations contained in paragraph 65 of the third amended complaint.

66. Defendants deny the allegations contained in paragraph 66 of the third amended complaint.

67. Defendants deny the allegations contained in paragraph 67 of the third amended complaint.

68. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 68 of the third amended complaint, and therefore deny same.

69. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 69 of the third amended complaint, and therefore deny same.

70. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 70 of the third amended complaint, and therefore deny same.

71. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 71 of the third amended complaint, and therefore deny same.

72. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 72 of the third amended complaint, and therefore deny same.

73. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 73 of the third amended complaint, and therefore deny same.

74. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 74 of the third amended complaint, and therefore deny same.

75. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 75 of the third amended complaint, and therefore deny same.

76. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 76 of the third amended complaint, and therefore deny same.

77. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 77 of the third amended complaint, and therefore deny same.

78. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 78 of the third amended complaint, and therefore deny same.

79. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 79 of the third amended complaint, and therefore deny same.

80. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 80 of the third amended complaint, and therefore deny same.

81. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 81 of the third amended complaint, and therefore deny same.

82. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the third amended complaint, and therefore deny same.

83. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 83 of the third amended complaint, and therefore deny same.

84. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 84 of the third amended complaint, and therefore deny same.

85. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 85 of the third amended complaint, and therefore deny same.

86. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 86 of the third amended complaint, and therefore deny same.

87. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 87 of the third amended complaint, and therefore deny same.

88. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 88 of the third amended complaint, and therefore deny same.

89. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 89 of the third amended complaint, and therefore deny same.

90. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 90 of the third amended complaint, and therefore deny same.

91. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 91 of the third amended complaint, and therefore deny same.

92. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 92 of the third amended complaint, and therefore deny same.

93. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 93 of the third amended complaint, and therefore deny same.

94. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 94 of the third amended complaint, and therefore deny same.

95. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 95 of the third amended complaint, and therefore deny same.

96. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 96 of the third amended complaint, and therefore deny same.

97. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 97 of the third amended complaint, and therefore deny same.

98. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 98 of the third amended complaint, and therefore deny same.

99. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 99 of the third amended complaint, and therefore deny same.

100. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 100 of the third amended complaint, and therefore deny same.

101. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 101 of the third amended complaint, and therefore deny same.

102. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 102 of the third amended complaint, and therefore deny same.

103. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 103 of the third amended complaint, and therefore deny same.

104. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 104 of the third amended complaint, and therefore deny same.

105. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 105 of the third amended complaint, and therefore deny same.

106. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 106 of the third amended complaint, and therefore deny same.

107. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 107 of the third amended complaint, and therefore deny same.

108. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 108 of the third amended complaint, and therefore deny same.

109. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 109 of the third amended complaint, and therefore deny same.

110. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 110 of the third amended complaint, and therefore deny same.

111. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 111 of the third amended complaint, and therefore deny same.

112. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 112 of the third amended complaint, and therefore deny same.

113. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 113 of the third amended complaint, and therefore deny same.

114. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 114 of the third amended complaint, and therefore deny same.

115. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 115 of the third amended complaint, and therefore deny same.

116. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 116 of the third amended complaint, and therefore deny same.

117. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 117 of the third amended complaint, and therefore deny same.

118. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 118 of the third amended complaint, and therefore deny same.

119. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 119 of the third amended complaint, and therefore deny same.

120. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 120 of the third amended complaint, and therefore deny same.

121. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 121 of the third amended complaint, and therefore deny same.

122. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 122 of the third amended complaint, and therefore deny same.

123. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 123 of the third amended complaint, and therefore deny same.

124. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 124 of the third amended complaint, and therefore deny same.

125. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 125 of the third amended complaint, and therefore deny same.

126. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 126 of the third amended complaint, and therefore deny same.

127. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 127 of the third amended complaint, and therefore deny same.

128. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 128 of the third amended complaint, and therefore deny same.

129. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 129 of the third amended complaint, and therefore deny same.

130. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 130 of the third amended complaint, and therefore deny same.

131. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 131 of the third amended complaint, and therefore deny same.

132. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 132 of the third amended complaint, and therefore deny same.

133. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 133 of the third amended complaint, and therefore deny same.

134. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 134 of the third amended complaint, and therefore deny same.

135. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 135 of the third amended complaint, and therefore deny same.

136. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 136 of the third amended complaint, and therefore deny same.

137. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 137 of the third amended complaint, and therefore deny same.

138. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 138 of the third amended complaint, and therefore deny same.

139. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 139 of the third amended complaint, and therefore deny same.

140. Defendants deny the allegations contained in paragraph 140 of the third amended complaint.

141. Defendants deny the allegations contained in paragraph 141 of the third amended complaint.

142. Defendants deny the allegations contained in paragraph 142 of the third amended complaint.

143. Defendants deny the allegations contained in paragraph 143 of the third amended complaint.

144. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 144 of the third amended complaint, and therefore deny same.

145. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 145 of the third amended complaint, and therefore deny same.

146. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 146 of the third amended complaint, and therefore deny same.

147. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 147 of the third amended complaint, and therefore deny same.

148. Defendants deny the allegations contained in paragraph 148 of the third amended complaint.

149. Defendants deny the allegations contained in paragraph 149 of the third amended complaint.

IV. PRAYER FOR RELIEF

150. Defendants deny that plaintiff is entitled to any relief or damages in this action, and state that plaintiff is not entitled to the relief and/or damages for which it prays in the third amended complaint.

151. To the extent any allegation in the third amended complaint has not been expressly admitted, it is hereby denied.

V. DEMAND FOR JURY TRIAL

152. Defendants admit that the third amended complaint purports to demand trial by jury, but this allegation does not require a response from defendants.

VI. AFFIRMATIVE DEFENSES

A. First Affirmative Defense

153. Plaintiff's third amended complaint, and each claim contained therein, fails to state a claim upon which relief can be granted.

B. Second Affirmative Defense

154. Upon information and belief, plaintiff's claims must be dismissed for failure to join a party under Fed. R. Civ. P. 19(a)(1) and 19(b).

C. Third Affirmative Defense

155. The claims and parties in this action are improperly joined under Rule 20 of the Federal Rules of Civil Procedure because there are questions of law or fact that are not common to all of the defendants, and the third amended complaint should be dismissed or, in the alternative, its claims against defendants should be severed for trial.

D. Fourth Affirmative Defense

156. The asserted claims of the '343 patent are invalid for failure to comply with one or more of the provisions of, and/or satisfy the conditions for patentability set forth in, 35 U.S.C. ¶¶ 100, *et seq.*, including, but not limited to 35 U.S.C. §§ 101, 102, 103, 112, 282, and/or 291.

E. Fifth Affirmative Defense

157. Defendants do not infringe, either directly, contributorily, or by inducement, any claim of the '343 patent, either literally or under the doctrine of equivalents.

F. Sixth Affirmative Defense

158. Upon information and belief, defendants do not infringe any of the asserted claims of the '343 patent because defendants are licensed, either implied or expressly, to take the actions that plaintiff asserts constitute patent infringement of the '343 patent. To the extent defendants resell products that are subject to a license agreement, covenant not to sue or other agreement, defendants are themselves, licensed, expressly or impliedly, to take the actions that plaintiff asserts constitute patent infringement of the '343 patent.

G. Seventh Affirmative Defense

159. To the extent plaintiff secures any relief from defendants, all or part of such liability is subject to indemnification and/or contribution against other parties or non-parties. Defendants reserve the right to bring indemnification claims with respect to plaintiff's allegations in the third amended complaint and/or to implead suppliers or other third parties to the extent necessary.

H. Eighth Affirmative Defense

160. Upon information and belief, plaintiff's recovery for any alleged infringement of the '343 patent, if any, is limited by at least 35 U.S.C. §§ 252 and 256, which, *inter alia*, prohibit recovery for any infringement committed more than six years before the filing of the third amended complaint.

I. Ninth Affirmative Defense

161. Upon information and belief, at least some of plaintiff's claims for relief concerning the '343 patent is limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287.

J. Tenth Affirmative Defense

162. Upon information and belief, plaintiff's claims are barred by the doctrine of first sale, exhaustion and/or implied license(s).

K. Eleventh Affirmative Defense

163. Upon information and belief, plaintiff is barred in whole or in part from seeking and/or recovering the relief sought in this action because it does not own or have authorization to enforce the '343 patent.

L. Twelfth Affirmative Defense

164. Upon information and belief, plaintiff lacks standing to sue.

M. Thirteenth Affirmative Defense

165. Plaintiff is not entitled to injunctive relief because any alleged injury is not immediate or irreparable, and plaintiff has an adequate remedy at law to the extent it sustained any legally recognizable injury.

N. Fourteenth Affirmative Defense

166. Upon information and belief, plaintiff is barred in whole or in part form recovering the relief sought in this action by the doctrine of prosecution/history estoppel.

O. Fifteenth Affirmative Defense

167. Upon information and belief, plaintiff is barred in whole or in part from recovering the relief sought in this action by the doctrine of acquiescence, laches, equitable estoppel, waiver, and/or unclean hands.

VII. COUNTERCLAIMS

A. Parties

168. CompUSA is a Florida corporation with offices at 7795 West Flagler Street, Suite 35, Miami, Florida 33144.

169. New CompUSA is a Delaware corporation with offices at 11 Harbor Drive, Port Washington, New York, 11050.

170. Systemax is a Delaware corporation with offices at 11 Harbor Drive, Port Washington, New York, 11050.

171. TigerDirect is a Florida corporation with offices at 7795 West Flagler Street, Suite 35, Miami, Florida 33144.

172. Plaintiff alleges that it is a Texas limited liability company with its principal place of business in Frisco, Texas.

B. Jurisdiction and Venue

173. These counterclaims arise under the United States patent laws, 35 U.S.C. § 101, et seq. This Court has jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, 2201 and 2202.

174. Plaintiff is subject to personal jurisdiction in this judicial district because it availed itself of the jurisdiction of this Court, and engaged in acts giving rise to this controversy in this district.

175. Venue is proper under 28 U.S.C. §§ 1391 and 1400(b) and pursuant to Fed. R. Civ. P. 13 because plaintiff filed this action in this district. This venue is not, however, the most convenient under the principles relevant to 289 U.S.C. § 1404(a).

C. First Counterclaim - Declaratory Judgment of Non-Infringement

176. Defendants repeat and reallege each and every allegation contained in paragraphs 1- 175 of this answer as though fully set forth herein.

177. In this action, plaintiff alleges that it is the exclusive licensee of, and owner of all substantial rights to, the '343 patent.

178. By reason of plaintiff's charges of patent infringement, and defendants' denial of those charges, a justiciable controversy exists between plaintiff and defendants with respect to plaintiff's assertion of infringement of the '343 patent and defendants' denial thereof.

179. Defendants have no adequate remedy at law.

180. By reason of the foregoing, defendants seek a declaration that they do not infringe any valid claim of the '343 patent, and that plaintiff be enjoined from further charging or threatening to charge defendants or their customers with infringement of the '343 patent.

D. Second Counterclaim - Declaratory Judgment of Patent Invalidity

181. Defendants repeat and reallege each and every allegation contained in paragraphs 1-180 of this answer as though fully set forth herein.

182. Upon information and belief, the claims of the '343 patent are invalid and/or unenforceable for failure to meet the requirements of one or more sections of Title 35, United States Code, and Title 37, Code of Federal Regulations, including, but not limited, to the requirements set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

183. By reason of plaintiff's charges of patent infringement, defendants' denial of those charges, and defendants' assertion that the '343 patent is invalid, a justiciable controversy exists between plaintiff and defendants with respect to defendants' assertion that the '343 patent is invalid for failure to satisfy the conditions for patentability set forth in 35 U.S.C. §§ 102, 103 and/or 112.

184. Defendants have no adequate remedy at law.

185. By reason of the foregoing, defendants seek a declaratory judgment that the '343 patent is invalid.

E. Third Counterclaim - Declaratory Judgment of Unenforceability

186. Defendants repeat and reallege each and every allegation contained in paragraphs 1-185 of this answer as though fully set forth herein.

187. By reason of plaintiff's charges of patent infringement, defendants' denial of those charges, and defendants' assertion that the '343 patent is unenforceable, a justiciable controversy exists between plaintiff and defendants with respect to defendants' assertion that the '343 patent is unenforceable.

188. Defendants have no adequate remedy at law.

189. By reason of the foregoing, defendants seek a declaratory judgment that the '343 patent is unenforceable.

VIII. RESERVATION OF RIGHTS

190. Defendants allege the above affirmative defenses and counterclaims based upon incomplete information because (i) they have not yet been afforded any significant discovery in this case; (ii) upon information and belief, plaintiff failed to disclose certain information regarding settlements in this case that cover the defendants' accused products; and (iii) plaintiff

interfered with defendants' ability to ascertain information regarding the accused products. Defendants' discovery and investigation of the claims, counterclaims and defenses in this action are continuing and defendants reserve the right to supplement and/or amend such defenses and/or counterclaims if and when further relevant information becomes available.

IX. PRAYER FOR RELIEF

WHEREFORE, defendants pray for judgment in their favor and an order:

1. dismissing the third amended complaint with prejudice insofar as it relates to defendants;
2. awarding judgment in favor of defendants and against plaintiff;
3. declaring that the '343 patent is not infringed by defendants or any of its customers through the making, using, selling and/or offering for sale of defendants' products and that defendants have not induced others to infringe, or contributed to the infringement of the '343 patent;
4. declaring that the '343 patent is invalid and/or unenforceable;
5. awarding costs to defendants;
6. declaring that this is an exceptional case under 35 U.S.C. § 285 and all other applicable statutes, rules and common law, and awarding defendants their costs and attorneys' fees incurred in this action; and

7. granting to defendants such other and further relief as this Court may deem just and proper.

Respectfully submitted,

DAVIDOFF MALITO & HUTCHER LLP
*Attorneys for Defendants Systemax, Inc.,
CompUSA.com, Inc., New CompUSA Corporation,
and TigerDirect, Inc.*

Dated: August 26, 2011

By: /s/David W. Denenberg
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, the within was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/David W. Denenberg

David W. Denenberg